

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NICKOLAS JONATHAN
FREDERICK, Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

NICKOLAS JONATHAN FREDERICK,

Respondent-Appellant.

UNPUBLISHED
December 2, 2003

No. 242049
Wayne Circuit Court
Family Division
LC No. 98-373070

Before: Cooper, P.J., and Markey and Meter, JJ.

PER CURIAM.

Respondent appeals by right from an order of disposition entered following delinquency proceedings in which the trial court determined that respondent committed an attempted larceny from a motor vehicle, MCL 750.92; MCL 750.356a(1). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent's sole claim on appeal is that the evidence was insufficient to sustain the verdict. He admits the evidence was sufficient to prove that an attempted larceny had been committed, but argues that it was insufficient to prove beyond a reasonable doubt he was the person who committed the offense.

A challenge to the sufficiency of the evidence in a bench trial is reviewed de novo on appeal. *People v Harmon*, 248 Mich App 522, 524; 640 NW2d 314 (2001). This Court views the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found that each element of the crime was proved beyond a reasonable doubt. *Id.* Circumstantial evidence and reasonable inferences therefrom may constitute sufficient evidence to find all the elements of an offense beyond a reasonable doubt. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). Thus, even if a witness cannot positively identify the defendant, the issue of identification is a question of fact for the trier of fact. *People v Abernathy*, 39 Mich App 5, 7; 197 NW2d 106 (1972).

Curtis Goteshe, the owner of the vehicle, testified that the person who tampered with the radio was a thin, young white man with short hair wearing a dark sweatshirt. Goteshe saw the

young man run off through the trailer park in the direction of Second Street. According to the responding officer, the dispatcher got a description of a white male dressed all in black. Respondent, a thin, young white man wearing dark clothing and carrying a dark sweatshirt, was found inside the trailer park near Second Street within minutes after the crime was committed. At an on-the-scene identification, Goteshe tentatively identified respondent, expressing uncertainty only because respondent had removed his sweatshirt. Viewed in a light most favorable to the prosecution, the evidence was sufficient to establish respondent's identity beyond a reasonable doubt. "The credibility of the identification testimony was a matter for the trial court as the trier of fact to decide. We will not resolve it anew." *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988).

We affirm.

/s/ Jessica R. Cooper

/s/ Jane E. Markey

/s/ Patrick M. Meter